

COUNTY OF KAUAI
Minutes of Meeting
Open Session

Board/Committee:	LIQUOR CONTROL COMMISSION	Meeting Date	July 6, 2017
Location	Mo'ikeha Building, Meeting Room #3	Start of Meeting: 4:01 p.m.	End of Meeting: 4:27 p.m.
Present	Chair Jean Iida, Vice Chair William Gibson; Members: Shirley Akita, Paul Endo, Gerald Matsunaga, Gary Pacheco Also: Liquor Control Staff: Director Gerald Rapozo, Private Secretary Cherisse Zaima; Deputy County Attorney Nicholas Courson		
Excused	Maryanne Kusaka		
Absent			

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SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Iida called the meeting to order at 4:01 p.m. with 6 members present, constituting a quorum.
Roll Call	Director Rapozo called roll, noting 6 members were present.	
Approval of the Agenda	Director Rapozo noted there was an addition to the agenda to add Items 5 (d) through (e)	Ms. Akita moved to approve the agenda as amended. Mr. Pacheco seconded the motion. Motion carried 6:0.
Public Hearing	<p><u>EL AZTECA</u>: Application No. 2017-114 was filed on April 20, 2017 by Cloroshko, LLC dba El Azteca for a Restaurant General (no live entertainment, no dancing) license located at 3830 Hanapēpē Road, Hanapēpē, Kauai, Hawaii.</p> <p>Ms. Elizabeth Diaz, owner, was present.</p> <p>Commissioner Matsunaga asked to clarify that their hours of operation will currently be only on Fridays from 4:00 p.m. to 10:00 p.m. to which Ms. Diaz confirmed, explaining that they will eventually extend their hours to more days as business grows.</p>	

	<p>Commissioner Gibson asked whether it would be more beneficial for the applicant to apply for one-day special licenses. Director Rapozo explained that because this is a regular weekly occurrence, obtaining a regular liquor license is better because it allows their neighbors and members of the public to be informed of the business, and also provide testimony on the application. One-day special licenses do not require public hearings.</p> <p>Commissioner Matsunaga asked whether the applicant would be restricted to operating only on Fridays to which Director Rapozo stated if she were operating under a special one-day license she would be. However, obtaining a regular Restaurant General liquor license allows her, by law, to operated 7 days a week from 6:00 a.m. until 2:00 a.m. The applicant currently only wishes to operate once a week, but plans to extend those hours as business grows.</p> <p>The public hearing for Application No. 2017-114 was closed.</p>	<p>Mr. Pacheco moved to approve Application No. 2017-114. Mr. Matsunaga seconded the motion. Motion carried 6:0.</p>
Approval of the Minutes	<u>APPROVAL OF THE MINUTES OF JUNE 22, 2017</u>	<p>Ms. Akita moved to approve minutes of June 22, 2017. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
1.	<p><u>DIRECTOR'S REPORT:</u></p> <p>a) <u>INVESTIGATORS' REPORTS</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <ul style="list-style-type: none"> (1) From Constellation Brands (2) From Leviathan Wine Company LLC (3) From Mast Jagermeister US, Inc. (4) From Sweepstakes Consulting (5) From Hinman & Carmichael LLP (6) Disturbance reports from Kauai Beach Resort, Kauai Marriott Resort 	

	<p>& Beach Club, and Rob's Good Times Grill</p> <p>c) <u>OUTGOING COMMUNICATIONS:</u> (1) To Constellation Brands (2) To Mast-Jagermeister US, Inc.</p> <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u> Managers and Assistant Managers – See Attachment</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u> (1) HANAIEI LIQUOR STORE (2) KILOHANA (3) MERRIMAN'S (4) ROB'S GOOD TIMES GRILL (5) TROY'S (6) THE WINE SHOP (7) WRANGLER'S STEAKHOUSE (8) WESTIN PRINCEVILLE OCEAN RESORT VILLAS</p> <p>f) <u>INFORMATIONAL MATTERS:</u></p>	
2.	<u>RENEWAL OF LIQUOR LICENSES (see Attachment B):</u>	Mr. Pacheco moved to accept Items 1(a) through 1(e). Mr. Gibson seconded the motion. Motion carried 6:0.
3.	<u>RENEWAL OF ANNUAL PERMITS (see Attachment C):</u>	Mr. Pacheco moved to approve the renewal of liquor licenses. Mr. Matsunaga seconded the motion. Motion carried 6:0.
4.	<u>CHANGE IN CORPORATE OFFICERS:</u> a) AOA OF HANAIEI BAY RESORT b) JAMES JASPER ENTERPRISES, LTD. c) LEALANI CORPORATION d) THE LODGE AT KOKEE	Ms. Endo moved to approve the renewal of annual permits. Mr. Pacheco seconded the motion. Motion carried 6:0.

	<p>e) MAROIS LLC dba GRINDS ESPRESSO f) NO. 1 CHINESE & BBQ VIII INC g) SUEOKA STORE h) YOUNG'S MARKET COMPANY, LLC</p>	<p>Mr. Pacheco moved to accept the change in corporate officers. Mr. Gibson seconded the motion. Motion carried 6:0.</p>
5.	<p><u>REQUEST FOR EXTENSION IN TIME TO SUBMIT TAX CLEARANCES:</u></p> <p>a) Hanai Kauai Inc. dba Hanai b) Wainiha General Store, Inc. dba Wainiha General Store c) XV Corp. dba Wrangler's Steakhouse d) Kawiki Enterprises LLC dba City Liquor e) Timbers Kauai Golf LLC dba Hokuala Golf Club</p>	<p>Mr. Pacheco moved to accept the requests for extension in time to submit tax clearances. Mr. Matsunaga seconded the motion. Motion carried 6:0.</p>
6.	<p><u>PERMANENT DECREASE OF PREMISES:</u></p> <p><u>BAR ACUDA:</u> Request for permanent decrease of premises to exclude the sunken deck area of the Hanalei Center, per diagram submitted.</p>	<p>Mr. Pacheco moved to approve the permanent decrease of premises. Mr. Gibson seconded the motion. Motion carried 6:0.</p>
7.	<p><u>PERMANENT INCREASE OF PREMISES:</u></p> <p><u>KAUAI BEER COMPANY:</u> Request for permanent increase of premises to include the space next door, per diagram submitted.</p> <p>Mr. James Guerber, owner, was present.</p> <p>Director Rapozo explained that he spoke with Leo in the Building Department, who informed him that their recommendation at the present time would be not to approve the increase until such time as the licensee has completed the demolition and construction of required restrooms in the adjoining building.</p>	

	<p>Commissioner Akita asked what issues the Building Division is having with regarding the construction because all the licensee is asking for is an increase in premises to include the adjoining space next door. Director Rapozo shared the information he received from the Building Division, explaining that Mr. Guerber received his demolition permit, but a building permit would be required for permanent equipment installations, and there would be additional issues related to the change in occupancy because of the square footage increase.</p> <p>In response to Commissioner Matsunaga, Mr. Guerber stated he has received the certificates of occupancy, and is all clear with those, and that everything is complete. He stated the Building Division is fine with the additions and subtractions that have been done to the property. He further explained that the connecting building has been converted from office space to an open atrium, and the back part of the building will continue to be used as storage. Commissioner Matsunaga stated there is a conflict between what Mr. Guerber is saying, and what Ms. Escalona of the Building Division is saying, who is apparently stating there is still some work to do. Mr. Guerber stated he feels Ms. Escalona is confused in that she thinks the increase of premises will involve seating customers in that space, and that it will function like a restaurant, which it will not.</p> <p>Director Rapozo left the meeting to attempt to contact Leo Escalona.</p> <p>Deputy County Attorney Courson interjected to explain that there are two pending matters involving this licensee on this agenda, one of which is a permanent increase of premises where the licensee would be, in fact, seating patrons. That is the item Ms. Escalona is commenting on. The other agenda item number 8 is a Request for Waiver of Rule, which would allow the neighboring space to be accessed via connecting door, and used for storage. These are two completely separate items. The current item the Commission is discussing, the Permanent Increase of Premises, would allow</p>	
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	<p>customers to be seated and served in the neighboring space, and that is what Ms. Escalona of the Building Division is commenting on, and is what the Commission is discussing right now.</p> <p>Mr. Guerber stated what they are asking for is an increase in premises to increase the size of the brewery. He explained that the place consists of two parts, half of which is where they brew beer, and one or two people will be in there. The other half is a restaurant, which is the current licensed premises. Mr. Guerber stated he does not intend to use the additional premises for anything other than a storage space until they build the structure out. Attorney Courson clarified that the next item on the agenda, the Request for Waiver of Rule, is the item that Mr. Guerber would be asking to use the adjoining space for storage purposes only. This current item being discussed is the Permanent Increase of Premises that would allow for customers to utilize that adjoining space, which is what the Building Division is objecting to. Attorney Courson stated for clarification that if the Commission granted the permanent increase, it would allow customers to utilize the adjoining space; Building Division is saying now is not the appropriate time. The next item, for Waiver of Rule, should it be granted would allow the licensee to access and use the adjoining space for storage.</p> <p>Director Rapozo returned to the meeting, and was given a brief overview by Attorney Courson of the discussion that had taken place in his absence. Attorney Courson stated he does not think Ms. Escalona is confused as to the permanent increase of premises, and restated that Building Division does not feel now is the appropriate time to grant a permanent increase of premises as Mr. Guerber will need a building permit, and change of occupancy in order to seat patrons in that space.</p> <p>Director Rapozo stated Ms. Escalona was not available, but noted that her final comment in the email he received from her that morning was: "A</p>	
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	<p><i>building permit is required for permanent equipment installations, and change of occupancy. No work can be done until the permit is approved and issued.” As of right now, that permit has not been issued.</i></p> <p>Commissioner Gibson asked to clarify that Mr. Guerber has the required permit, to which Mr. Guerber explained there are several permits, but they do not have the permit to rebuild; however, they have the permit to demolish. There are two more permits that would be required. One to construct the shell of the building, and the other to install bathrooms. It would not be until after all of that is done that customers would be utilizing that adjoining space.</p> <p>Commissioner Akita asked for clarification that the expansion will be to include the building that currently houses Masa's Sushi to which Mr. Guerber replied yes. Commissioner Akita asked whether the expansion to include the Masa's Sushi space is the item that is currently being discussed, and which is what the Building Department is asking the Commission to hold off on. Mr. Guerber replied that what the Building Division is objecting to is the number of bathrooms; there are currently 3, but Ms. Escalona feels more are needed based on a very complex calculation in the building code. Mr. Guerber feels the number of bathrooms is fine, but stated that Ms. Escalona objects to that.</p> <p>Commissioner Endo asked whether Items 7 and 8 involve the same space to which staff replied yes. Attorney Courson explained the space is the same, but it is the use of the space that differs; the granting of item 7 would give the licensee full use of the space to seat and serve customers, the granting of Item 8 would give them access to and use of the space for storage.</p> <p>In regard to the request for waiver, Director Rapozo stated for clarification that the Rule states that the portion of the premises that is licensed cannot be connected to an area that is NOT licensed. The waiver would allow the</p>	
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	<p>licensee, with good cause, to have access to the unlicensed area from the licensed area. Attorney Courson pointed out the importance of that distinction, noting that the Commission's concern is not whether that unlicensed space is being used for storage or not, but rather are discussing whether or not to grant the request to allow access to an unlicensed property from a licensed property. The other item, the Permanent Increase of Premises, would allow the expansion of the license to include the adjoining building, which is currently unlicensed. Attorney Courson further explained that the granting of the Waiver of Rule would allow the licensee to do whatever he was allowed to do in an unlicensed premises, and would just allow access to that unlicensed space from the licensed area.</p> <p>Commissioner Matsunaga asked to clarify that Building Division has no objection to the granting of the waiver to which Director Rapozo replied yes, noting that is Item 8; they are still on Item 7.</p> <p>Commissioner Gibson asked whether Item 8 was dependent upon Item 7 to which staff replied no, they are two completely separate items. He stated that the waiver does not solve the licensee's problem with the doorway to which staff replied it does. It allows them to use the doorway to access the unlicensed space. Attorney Courson pointed out that the waiver does not help them obtain the permanent increase as it is a completely independent item. The licensee will still have to come before the Commission at some point to request the permanent increase of premises once they wish to start utilizing the adjoining space for customers.</p>	<p>Mr. Matsunaga moved to deny the request for permanent increase of premises. Mr. Endo seconded the motion. Motion carried 6:0</p>
8.	<p><u>REQUEST FOR WAIVER OF RULE (deferred from June 22, 2017 meeting):</u></p> <p><u>KAUAI BEER COMPANY</u>: Pursuant to Rule 7.4(f) of the Rules and Regulations of the Liquor Commission of the County of Kauai, Kauai</p>	

	<p>Brewers LLC dba Kauai Beer Company is requesting a waiver of Rule 7.4(e) Condition of Premises.</p> <p>Commissioner Matsunaga asked to clarify for the record that the Building Division has no objection to granting the waiver to which Director Rapozo replied yes.</p>	<p>Ms. Akita moved to approve the request for request for waiver of rule. Mr. Gibson seconded the motion. Motion carried 6:0.</p>
9.	<p><u>NEW LIQUOR LICENSE:</u></p> <p><u>HUAKAI OUTFITTERS:</u> Application No. 2017-247 was filed on June 26, 2017 by The Club at Kukui‘ula dba Huakai Outfitters for a Retail Dealer General license at 2700 Ke Alaula Street, Kōloa, Kauai, Hawaii.</p>	<p>Mr. Endo moved to accept Application No. 2017-247 for publication and public hearing. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
10.	<p><u>TRANSFER LIQUOR LICENSE:</u></p> <p><u>AMA:</u> Application No. 2017-313 was filed on June 28, 2017 by Ama Restaurants LLC dba Ama to operate Restaurant General License No. 2G-058 located at 5-5161 Kūhi‘ō Highway, Hanalei, Kauai, Hawaii.</p>	<p>Ms. Akita moved to accept Application No. 2017-313 for publication and public hearing. Mr. Endo seconded the motion. Motion carried 6:0.</p>
11.	<p><u>TEMPORARY LIQUOR LICENSE:</u></p> <p><u>AMA:</u> Application No. 2017-314 was filed on June 28, 2017 by Ama Restaurants LLC dba Ama for a temporary liquor license to operate Restaurant General License No. 2G-058 located at 4-1380 Kūhi‘ō Highway, Kapaa, Kauai, Hawaii.</p>	<p>Ms. Akita moved to approve Application No. 2017-314 for temporary liquor license. Mr. Endo seconded the motion. Motion carried 6:0.</p>
Announcements	<p>Next Scheduled Meeting: Thursday, July 22, 2017 – 4:00 pm, Mo‘ikeha Building, Meeting Room #3.</p>	
Adjournment		<p>Chair Iida adjourned the meeting at 4:27 p.m.</p>

Kaua'i Liquor Control Commission
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July 6, 2017

Page **10**

Submitted by: _____
Cherisse Zaima, Private Secretary

Reviewed and Approved by: _____
Jean Iida, Chair